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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

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DEC 10 1997

In the Matter of)

SCHALLER TELEPHONE COMPANY)

Request for Waiver of Carrier
Identification Code Requirement)

CC Docket No. 92-237

To: The Network Services Division,
Common Carrier Bureau

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REQUEST FOR WAIVER

Schaller Telephone Company (Schaller), by its attorneys and pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, and the Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking (Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)), CC Docket No. 92-237, FCC 97-386, para. 24, released Oct. 22, 1997 [hereinafter Order], requests waiver of the requirement to support four-digit CICs by January 1, 1998.

In the Order, para. 20, the Commission ordered local exchange carriers (LECs) that provide equal access to accept four-digit CICs by January 1, 1998. The Commission recognized that some LECs may not be able to convert their switches by that deadline, and stated that a LEC that cannot meet that deadline should seek relief from the Commission. As more fully described below, Schaller currently provides equal access through Iowa Network Services (a centralized equal access provider) but Schaller itself cannot support four-digit CICs. Schaller plans

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to replace its four switches in the first half of 1998. Schaller therefore requests an extension of the deadline for supporting four-digit CICs until July 1, 1998. This waiver request is similar to waivers recently granted to Northeast Nebraska Telephone Company (Northeast) and Pioneer Telephone Cooperative, Inc. (Pioneer) in the Order (Clarks Telecommunications Co.), DA 97-2528, released Dec. 3, 1997 (Net. Serv. Div.) [hereinafter CIC Waiver Order].

Need for Waiver

Schaller Telephone Company is a small LEC serving approximately 1,800 lines in rural Iowa. Currently, Schaller uses four Northern Telecom (Nortel) switches with 302.40 generic software. This generic software does not support four-digit CICs. Upgrading the switches to support four-digit CICs would cost at least \$200,000 and possibly as much as \$300,000.

Schaller instead plans to replace its switches in the first half of 1998 with four Nortel switches using 400 generic software. The new switches will support four-digit CICs, and will support many other services not supported by the current switches, including ISDN, SS7 and caller ID.

Schaller currently is in the process of obtaining financing from the Rural Utilities Service (RUS) for the switches, and has begun negotiations with Nortel in that regard. Schaller expects to obtain RUS financing, order the switches, and have them up and running before the end of June 1998.

Schaller therefore requests a waiver of the January 1, 1998 deadline for the support of four-digit CICs. Without a waiver, it would need to spend \$200,000 to \$300,000 to upgrade the Nortel switches which it plans to replace within the next seven months. The waiver therefore would permit Schaller to focus its resources on replacing its switches, rather than upgrading ones that soon will be replaced.

**The Recent CIC Waiver Order Favors
Grant of the Waiver to Schaller**

The Commission recently granted similar waivers to Northeast and Pioneer. CIC Waiver Order, paras. 16-22. Northeast planned to replace a switch early in 1998, and Pioneer planned to complete switch upgrades by June 30, 1998. The Commission granted their requests by extending the deadline for the provision of four-digit CIC capability until June 30, 1998. Id. paras. 36-37. For the same reasons, as enumerated below, the Commission should grant the waiver requested by Schaller.

The Commission based its decision to grant the waivers to Northeast and Pioneer on four key factors. First, the two LECs were diligently working to upgrade or replace their switches. Second, the product needed to support four-digit CICs either was not readily available from the switch manufacturer, or was included in the purchase of a new switch. Third, the impact of an extension of the deadline on the interexchange carriers (IXCs) served by the LECs and on the ability of their customers to reach IXCs through dial-around calling, did not outweigh the burden

that would be imposed on the LECs by a denial of their petitions for waiver. Finally, the deadline extension requests were reasonable.

Similarly, in the case at hand, Schaller is diligently working on replacing its switches to provide four-digit CIC capability as well as other features including ISDN, SS7 and caller ID. Schaller -- like Northeast and the affected exchanges of Pioneer -- serves only a small number of access lines. Schaller serves 1,800 lines, whereas the lines affected by the Northeast and Pioneer waivers were 1,150 and 7,000 respectively. Schaller also would suffer an undue economic burden if it were compelled to meet the January 1, 1998 deadline. It would need to spend at least \$200,000 to upgrade switches that soon will be replaced. Furthermore, Schaller has not received any requests to support four-digit CICs, and Schaller will continue to support three-digit CICs through June 30, 1998. Thus, the impact on IXCs will be nonexistent or minimal, and will not affect the end of the permissive dialing period. See id. para. 18. As the Commission determined that the impact of the deadline extensions on the IXCs served by Northeast and Pioneer did not outweigh the burden that would be imposed on the LECs by a denial of their extension requests, the Commission should likewise determine that the impact of the deadline extension for the IXCs served by Schaller through Iowa Network Services does not outweigh the burden on Schaller that would be imposed by a denial of the instant waiver request.

Finally, just as the Commission determined that Northeast's and Pioneer's extensions to June 30, 1998 were reasonable, the extension to June 30, 1998 for Schaller is reasonable.

For these reasons, the CIC Waiver Order favors the grant of a waiver to Schaller. See also id. paras. 34-41 (granting other extensions of the January 1, 1998 deadline).

Commission Precedent Supports Grant of the Waiver

Grant of a waiver is mandated by other Commission decisions granting waivers to LECs who planned to replace switches shortly after the deadline for offering a new feature.

For example, when the Commission established a January 1, 1997 deadline for the provision of *82 caller ID unblocking, Pacific Bell requested, and was granted, a waiver until June 1, 1997. Pacific Bell stated that it planned to replace its switches in the first half of 1997, and that upgrading switches that it planned to replace would be inefficient. Pacific Bell noted that only 18,400 customers would be affected by the waiver. Memorandum Opinion and Order (Caller ID), 11 FCC Rcd. 12,756 para. 6 (1996). The Commission granted the waiver. The Commission agreed that it would be inefficient to upgrade switches which were going to be replaced, that the waiver would affect a small number of lines, that no objections had been filed, and that the waiver would last only a limited time. Id. para. 8.

Similarly, in the case at hand, it would be inefficient for Schaller to upgrade the switches that it plans to replace, the waiver would affect only 1,800 subscribers (about 1/10 of those affected by the Pacific Bell waiver request), no carriers have requested Schaller to support four-digit CICs, and the waiver would last only until the switches are replaced in the first half of 1998. As the Commission determined that Pacific Bell's waiver request would serve the public interest, see id., it should likewise determine that Schaller's waiver request will serve the public interest.

Finally, grant of a waiver would be consistent with the Commission's commitment to reducing the regulatory burdens on small telephone companies. See, e.g., Notice of Proposed Rulemaking (End User Common Line Charges), 10 FCC Rcd. 8565, 8580 (1995); Report and Order (Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services), FCC 97-352, released Sept. 30, 1997 (stating that in the 1996 Act, "Congress expressed particular concern about burdens placed on small and rural LECs"); Notice of Proposed Rulemaking (Regulation of Small Telephone Companies), 2 FCC Rcd. 1010, 1010 (1986) (minimizing regulatory burdens), adopted by 2 FCC Rcd. 3811 (1987) (Report and Order), recon., 3 FCC Rcd. 5770 (1988); LEC Price Cap Order, 5 FCC Rcd. 6786, 6818 (1990) (recognizing that small telephone companies should not be forced into a regulatory regime that was designed based largely on performance of largest telephone companies); Report and Order

(Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation), 8 FCC Rcd. 4545 (1993) (adopting a new and different set of optional incentive regulations designed specifically for smaller companies); Order on Reconsideration (Interstate Interexchange Marketplace), FCC 97-293, para. 105, released Aug. 15, 1997 (rejecting suggestion to require the deployment of SS7 which would impose greater burdens on small LECs); Second Report and Order (Telephone Number Portability), FCC 97-289, paras. 8-9, released Aug. 14, 1997 (stating that the Commission had reduced burdens on rural and smaller LECs).

For these reasons, Schaller has demonstrated the unique facts and circumstances which warrant the grant of a waiver. In accordance with WAIT Radio v. FCC, 418 F.2d 1153, 1157 (1969), and Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990), the Commission should look favorably upon Schaller's waiver request.

CONCLUSION

Good cause having been shown, Schaller respectfully submits that ample justification exists in the public interest for the Commission to grant a waiver of the January 1, 1998 deadline for supporting four-digit CICs. Schaller Telephone Company requests the waiver to extend through June 30, 1998 by which time Nortel should have installed the new switches. Such waiver is favored by the waivers recently granted to Northeast and Pioneer in the CIC Waiver Order. Such waiver also is consistent with the

Commission's policy of minimizing regulatory burdens on small telephone companies and other Commission decisions granting waivers to LECs who planned to replace their switches. A waiver is further justified by the unique facts and circumstances of Schaller's planned switch replacement, and is otherwise in the public interest.

Respectfully submitted,

SCHALLER TELEPHONE COMPANY

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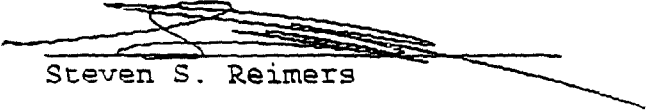
December 10, 1997

DECLARATION

I, Steven S. Reimers, hereby state the following:

1. I am the General Manager of Schaller Telephone Company.
2. I have read the foregoing Request for Waiver concerning the requirement to support four-digit carrier identification codes. With the exception of those facts of which official notice can be taken, all facts stated in the Request are true and correct to my own personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 10 day of December, 1997.


Steven S. Reimers

CERTIFICATE OF SERVICE

I, Susan J. Bahr, an attorney in the law firm of Blooston, Mordkofsky, Jackson & Dickens, certify that on this 10th day of December 1997, I have caused to be hand-delivered copies of the foregoing to:

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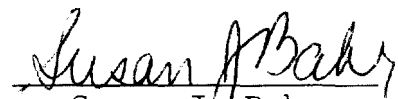
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